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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,491	12/31/2003	Henry A. Privette	5713-001	1204

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EXAMINER

WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,491

Applicant(s)

PRIVETTE ET AL.

Examiner

Andrew Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-20 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 21 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the connecting rods between the carriages and the connecting rods between the tracks (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 14 is objected to. Claim 14 positively recites connecting rods twice. This is improper. The different elements should be given different names, such as first connecting rods and second connecting rods. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Elliot et al. (US 4,801,152). Regarding claim 1, Elliot shows a boat dolly for holding a boat with an elongated hull and longitudinal axis. The dolly comprises a carriage (13). The carriage has a central part (not numbered) just below the base of the "V" shape. The dolly has an upper surface (31). The dolly has a watercraft mount (20) that extends upward from the upper surface. The dolly has a wheel (16). The wheel has an outwardly curved surface that is elevationally beneath the watercraft mount and the central part of the carriage. The wheel is a caster that can rotate 360°. There are at least two positions of the wheel in its 360° range where the long axis of the boat is transverse to the curved surface of the wheel.

5. Claim 2, two carriages (12 and 13) can be used in spaced, parallel relationship along the long axis of the boat.

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6. Claim 4, the carriage include ratchet furled strap (21) for adjustably locking the boat to the mount.

7. Claim 5, more than one wheel (16) is shown. The excess wheels prevent the dolly from tipping over, and therefore prevent rotation of the carriage beyond a predetermined angle.

8. Claims 1, and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishimura (US 3,940,862). Regarding claim 1, Nishimura shows an apparatus comprising a carriage (12) with a central portion and a top surface. A block (not numbered) rests on top of springs (13) to support the watercraft. The block and springs together constitute a watercraft mount that extends upwardly from the upper surface. The apparatus comprises a circular base (19) that has an outwardly curved surface. The curved surface is disposed beneath the mount and the central portion. The boat long axis is transverse to portions of the curved surface.

9. Claim 3, the mount is vertically adjustable via the springs (13).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliot et al. (US 4,801,152). Elliot discloses the elements of claim 1. Elliot does not disclose that the boat is a canoe or kayak. Elliot teaches that the mount (20) may have different configurations, presumably for supporting different types of boats. Canoes and kayaks are well known and common forms of boat. One might wish to support a canoe or kayak in a moveable dolly for the purpose of storage and transport. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elliot by using the dolly with a canoe or kayak. The motivation would be to store and/or transport the canoe or kayak.

12. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura (US 3,940,862). Nishimura shows an apparatus comprising a carriage (12) with a central portion and a top surface. A block (not numbered) rests on top of springs (13) to support the watercraft. The block and springs together constitute a watercraft mount that extends upwardly from the upper surface. The apparatus comprises a circular base (19) that has an outwardly curved surface. The curved surface is disposed beneath the mount and the central portion. The boat long axis is transverse to portions of the curved surface. The curved surface extends over a range of 360°, which includes the range of about 20° to about 30°. Nishimura does not disclose the radius of curvature of the circular base (19). One wishing to make and use the Nishimura invention would necessarily have to decide on a radius of curvature of the base (19). The radius of curvature of the base would be a design parameter that depends upon the

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size of the apparatus via the size of the boat to be held. It would be within the range of knowledge of the skilled artisan to make the base whatever size is necessary to support the intended boat. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nishimura by using the a base with a radius of curvature of about 1.5 ft. to 2.5 ft. The motivation would be to make and use the apparatus to support a boat of comparable size.

Allowable Subject Matter

13. Claims 8-20 are allowed.

14. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

The examiner and his supervisor are relocating to the new Office campus in Alexandria, VA, on or around April 5, 2005. Telephone calls to the examiner and/or examiner's supervisor after that date should be directed as follows. The examiner's new telephone will be (571) 272-6690. The examiner's fax number for unofficial communications will be (571) 273-6690. The supervisor's new telephone number will be (571) 272-6684.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

for 1/25/05
ANDREW D. WRIGHT
PRIMARY EXAMINER